IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NOS.24271 AND 26983 of 1996

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WRIT PETITION NO. 24271 OF 1996

Between:

Gangula China Kotaiah, S/o Veera Swami, resident of

Malki Mohammadpuram, H/o Pulla, Bhimadole Mandal,

West Godavari District.

..... PETITIONER

AND

1. The State of Andhra Pradesh, rep. by its Principal Secretary to Government, Revenue Department, Secretariat Buildings, Hyderabad.
2. The Commissioner, Charitable and Hindu Religious Institutions and Endowments Department, Government of A.P., Hyderabad.
3. The District Collector (Social Welfare), West Godavari, Eluru.
4. The Revenue Divisional Officer, Eluru, West Godavari District.
5. The Mandal Revenue Officer, Bhimadole, West Godavari District.
6. The Asst. Commissioner, Charitable and Hindu Religious Institutions and Endowments Department, Government of A.P., Eluru, West Godavari District.
7. The Gram Panchayat of Pulla, Bhimadole Mandal, West Godavari District, rep. by its Executive Officer.
8. Gautu Jagan Mohana Venkata Narasaiah @ Srinivas, S/o Mohana Sita

Ramaiah, resident of Malki Mohammadpuram, H/o Pulla, Bhimadole Mandal, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction a) declaring that the G.O.Ms.NO.456 (Rev. – Endts – II) Department, dated 29.09.1995, issued in the name of the Governor of Andhra Pradesh by the Principal Secretary to Government, Revenue Department, Government of A.P., Hyderabad, who is the 1st respondent herein is arbitrary, illegal and void being ultra vires of the Constitution of India and also in conflict with Sections 4, 5A, 6, 7, 8, 9, 17 and 18 of the Land Acquisition Act, 1894 as amended by the Legislature of the State of A.P., under Acts 22/1976 and 9/1983 and (b) declaring all the proceedings of acquisition of the land of an extent of Ac.4.22 cents in Survey No.859 and Ac.1.28 cents in Survey No.767 situate in Malki Mohammad Puram village, hamlet of Pulla, Bhimadole Mandal, West Godavari District, belonging to Sri Venugopala Swamy Devasthanam of the said village in pursuance of Notifications bearing Nos.F5/S.W?/88/96, and F5/SW/81/96 respectively dated 13.03.1996, issued by the District Collector, West Godavari, who is the 3rd respondent herein, under Section 4(1) of the Land Acquisition Act or any other proceedings as arbitrary, illegal and void.

Counsel for the Petitioner: MR.T.DURGA PRASAD RAO

Counsel for the Respondent Nos.1 to 7: GP FOR REVENUE

Counsel for the Respondent No.8: None appeared

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WRIT PETITION NO.26983 of 1996

Between:

1. Bonam Rama Mohan Rao, S/o Rama Swamy, resident of Malki

Mohammadpuram, H/o Pulla, Bhimadole Mandal, West Godavari District.

2. Pujari Satyanarayana, S/o Krishna Murthy, resident of Malki

Mohammadpuram, H/o Pulla, Bhimadole Mandal, West Godavari District.

3. Nella Prakash Rao, S/o Seshaiah, resident of Malki

Mohammadpuram, H/o Pulla, Bhimadole Mandal, West Godavari District.

4. KallaDharma Rao, S/o Lakshmanaswamy @ Chantiyya, resident of Malki

Mohammadpuram, H/o Pulla, Bhimadole Mandal, West Godavari District.

5. Ganisetti Pandurangarao, S/o Malleswara Rao, resident of Malki

Mohammadpuram, H/o Pulla, Bhimadole Mandal, West Godavari District.

6. Peddireddi Satyanarayana, S/o Bhushayya, resident of Malki

Mohammadpuram, H/o Pulla, Bhimadole Mandal, West Godavari District.

7. Paidi Gangadhara Rao, S/o Rama Rao, resident of Malki

Mohammadpuram, H/o Pulla, Bhimadole Mandal, West Godavari District.

8. Epuri Venkatalakshmi,W/o Gangaiah, resident of Malki

Mohammadpuram, H/o Pulla, Bhimadole Mandal, West Godavari District.

9. V.V.V. Satyanarayana, S/o Venkata Ratnam, Rtd. Law Secretary, Ashok

Nagar, Hyderabad.

..... PETITIONERS

AND

1. The District Collector (Social Welfare), West Godavari, Eluru.
2. The Land Acquisition Officer and Revenue Divisional Officer, Eluru, West Godavari District.
3. The Mandal RevenueOfficer, Bhimadole, West Godavari District.
4. Gautu Jagan Mohana Venkata Narasiah, @ Srinivas, S/o Mohana Seeta Ramaiah, r/o Malki Mohammadpuram, H/o Pulla, Bhimadole Mandal, West Godavari District.
5. The Grampanchayat of Pulla, Bhimadole Mandal, West Godavari District, rep. By its Executive Officer.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more in the nature of a Writ of Mandamus (a) declaring that the two Notifications issued by the District Collector, West Godavari at Eluru, vide F5/SW/81/96 and F5/SW/88/96, dated 13.03.1996 under Section 4 of Act 1 of 1894 as amended by Act 38/1923 and A.P. Land Acquisition Act 22/76 for acquisition of Zeroyiti Wet land of Ac.1.28 cents in S.NO.767 and Ac.4.22 cents in S.No.859 respectively situate in Malki Mohammadpuram village, H/o Pulla, Bhimadole Mandal,West Godavari District, belonging to Sri Venugopalaswamyvari Devasthanam of the said Village and all further proceedings pursuant thereto are arbitrary, capricious, illegal and void (b) consequently directing the respondents 1 to 3 to deliver back the vacant possession of the said land to the said Temple after removing the Earth mounds, Tents, and

other structures existing thereon put by the beneficiaries, ascertain and pay the value of mesne profits thereon to the Temple for the period of dispossession (c) directing the respondents 1 to 3 to acquire for the required purpose the land of the 4th respondent and others in S.No.854 which is more convenient than any other land in the village or the land of Gandham Veeraswamy and others in S.No.860 or the unused land of A.P. Agricultural University in S.Nos.805/2, 581/3B, 582/3B, 806, 807 or any other suitable land the village, or (d) alternatively directing the respondents 1 to 3 to acquire the land of the 4th respondent and others inS.No.854, admeasuring Ac.4.86 cents and some other land to an extent of 0.64 cents in the vicinity and give the same to the said Temple in lieu of its land in question.

Counsel for the Petitioners: MR.T.DURGA PRASAD RAO

Counsel for the Respondent Nos.1 to 3 and 5: GP FOR LAND ACQUISITION

Counsel for the Respondent No.4: Mr. M. Vijaya Kumar

The Court made the following:

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THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 24271 and 26983 of 1996

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Common order:

These two writ petitions principally assail the notifications issued by the District Collector, West Godavari, under Section 4(1) of the Land Acquisition Act, 1894 seeking to acquire an extent of Ac.1-28 cents in

Sy. No. 767 and an extent of Ac.4-22 cents in Sy. No. 859 of Malki Mohammadpuram H/o Pulla village, Bhimadole Mandal, West Godavari District, belonging to Sri Venugopalaswamivari Devasthanam, as illegal and arbitrary.

Therefore, they are being disposed of by this common order.

One Gangula China Kotaiah, who claims to be the cultivating tenant of the lands belonging to Sri Venugopalaswamivari Devasthanam (hereinafter referred to as 'the Devasthanam') has filed writ petition in W.P. No. 24271 of 1996. Apart from challenging the afore-mentioned notifications, he *inter alia*, is assailing the orders issued by the Government in G.O. Ms. No. 456, Rev-Endts-II Department, dated 29-9-1995, as illegal and arbitrary, *ultra vires* the Constitution of India, and offending the provisions of Sections 4, 5A, 6, 7, 8, 9, 17 and 18 of the Land Acquisition Act, 1894 (for short 'the Act'). While nine persons, who claim to be residents of Malki Mohammadpuram H/o Pulla, Bhimadole Mandal, West Godavari District, filed writ petition in W.P. No.26983 of 1996 in public interest, of which the 2nd petitioner claims that he was ex-Chairman of the Trust Board of the Devasthanam and the 7th and 8th petitioners claim that they are members of the Gram Panchayat, Pulla. They apart from assailing the afore-mentioned notifications, as illegal and arbitrary, *inter alia* prayed that the lands of the Devasthanam be spared from acquisition, and instead, either the lands of 4th respondent and others, situated in Sy. No. 854 and 860 or the unused land of A.P. Agricultural University, situated in Sy. No. 805/2 etc. of Malki Mohammadpuram, be acquired.

Heard the learned counsel for the petitioners, the learned Government Pleader for Land Acquisition for the official respondents, and the learned counsel for the unofficial respondent.

The learned counsel for the petitioners submitted that the Devasthanam owns wet land in an extent of Ac. 6-70 cents in Sy. No. 859 and an extent of Ac.1-28 cents in Sy. No. 767 of Maliki Mohammadapuram, and the District Collector, West Godavari, issued notifications under Section 4(1) of the Act on 13-3-1996, seeking to acquire land in an extent of Ac.4-22 cents of land in Sy. No. 859 and an extent of Ac. 1-28 cents in Sy. No. 759, followed by declarations dated 14-3-1996 issued under Section 6 of the Act, for providing house sites to poor persons. Pursuant to the above notifications and declarations, when the Assistant Commissioner of Endowments, Eluru, requested the Chairman of the Trust Board of the Devasthanam, to give their consent and willingness of the tenants of the lands for acquisition, the Trust Board passed a resolution dated 27-5-1996, that the lands of the Devasthanam should not be acquired. However, even before the resolution was passed by the Trust Board,

the Assistant Commissioner of Endowments, Eluru, vide his letter dated 25-5-1996 called upon Executive Officers of 18 temples, including the Executive Officer of the Devasthanam, to act in accordance with G.O. Ms. No. 456 (Rev-Endts) Department, 29-9-1995, and on the very same day, the Mandal Revenue Officer, Bhimadole, also issued pattas to the beneficiaries. On 7-6-1996, when the Mandal Revenue Officer, Bhimadole, along with his staff, without any notice either to the tenant or the Trust Board, tried to enter into the land, the then Chairman of the Trust Board of the Devasthanam, filed writ petition in W.P. No. 10805 of 1996 questioning the constitutional validity of G.O. Ms. No.456 (Rev-Endts) Department,
29-9-1995, which was later withdrawn. As the writ petition was withdrawn by the then Chairman of the Trust Board of the Devasthanam, one of the petitioners being the tenant and other petitioners having contributed to the development of the Devasthanam and interested in its affairs, have filed the writ petitions.

The learned counsel for the petitioners submits that the impugned notifications and declarations seeking to acquire the land of the Devasthanam for providing house sites to weaker sections of the society, are illegal and arbitrary, and they cannot be sustained, for the reason that they were neither published in the District Gazette nor in the daily newspapers having circulation in the locality, and in support of this submission, he placed reliance on the judgment of the Full Bench of this Court in **Yadaiah v. Govt. of A.P.**. He submitted that except the small extent of land, which is sought to be acquired under the impugned notifications, the Devasthanam has no other land, and if the said land is allowed to be acquired, both the Devasthanam as well as the tenant, will be deprived of the only source of income, and the Devasthanam will be left with only a small extent of Ac.2-40 cents, and therefore, prayed that they be spared from acquisition. He submitted that all the persons in the village are having houses, and there is no necessity to acquire any lands, much less the lands of the Devasthanam, for providing house sites to weaker sections of the society. The land of the Devasthanam is sought to be acquired for providing house sites to persons, who do not belong to the village, and most of the beneficiaries are having houses, and out of eighty plots, ten plots are still vacant they having not been allotted to anybody. Though there is no urgency to acquire the land, yet the official respondents invoking the provisions of urgency clause under Section 17(4) of the Act, dispensed with the enquiry under Section 5-A, and there

being no subjective satisfaction of the authority, enquiry could not have been dispensed with, and in support of this submission, he placed reliance on the judgment of the Full Bench of this Court in

T. Narsaiah v. P. Bhadraiah. Though, earlier the then Chairman of the Trust Board of the Devasthanam, filed writ petition, he later withdrew the same at the instance of the unofficial respondent, who is a local leader and who was instrumental in getting the lands of the Devasthanam acquired. He submitted that in the acquisition of the land of the Devasthanam, the guidelines issued by the Government in G.O. Ms. No. 456 (Rev-Endt) Department, dated 29-9-1995, which are repugnant to and inconsistent with the provisions of various provisions of the Act, were followed, and as such, the impugned notifications and declarations, and likewise the impugned G.O. cannot be sustained, and thus prayed that they be quashed and set aside. He submitted that though there are other alternative lands belonging to government and private individuals, including that of the unofficial respondent, who has leveled his land and made housing plots, available for acquisition, which are more suitable and useful for house sites, yet the official respondents at the instance of the unofficial respondent, sought to acquire the land of the Devasthanam, which is fraught with *mala fides*, and prayed that the land in question be directed to be restored to the Devasthanam and the tenant, and in support of this submission, he placed reliance on **H.M.T. House Building Co-op. Society v. M. Venkataswamappa,** and more so when during the pendency of the writ petitions before this Court, the Commissioner of Endowments, issued two separate notices in Vaartha dated 7-12-1998 and 22-12 —1998 under Section 80(1)(b) of the Endowments Act, stating that the Trust Board of the Devasthanam, made an application seeking permission to sell the land acquired in 1996 to the Revenue Department for providing house sites to weaker sections of the society, and invited objections, and though objections were submitted, there is no response so far.

The official respondents (revenue) filed a brief counter. The learned Government Pleader for Land Acquisition appearing on their behalf supported the acquisition proceedings. He contended that pursuant to the notifications and declarations issued for acquisition of the land of the Devasthanam, the land was acquired and possession thereof was taken on 25-5-1996, and pattas to the beneficiaries were issued on 28-5-1996, and possession was also handed over to them on

4-6-1996. He contended that in the issuance of the notifications and declarations for acquisition of land of the Devasthanam, they have not violated the provisions of the

Act, for the notifications and declarations were published in the District Gazette as also the local newspapers, and further the acquisition was made having regard to the guidelines issued by the Government in G.O. Ms. No. 456 (Rev-Endt) Department, dated 29-9-1995, which were upheld by a Division Bench of this Court vide its judgment dated 26-7-1999 passed in W.A. No. 904 of 1999. He further submitted that the land of the Devasthanam having been acquired, the revenue officials also paid 80% of the compensation to the Assistant Commissioner of Endowments, Eluru, on 31-3-2001. He submitted that the tenant cannot claim to have a better right than what the Devasthanam has, and compensation having been paid for the acquired land, the tenant can claim his share of compensation, and certainly cannot be permitted to assail the acquisition proceedings. He further submitted that since the writ petition W.P. No. 10805 of 1999 and the contempt case, filed by the then Chairman of the Trust Board of Devasthanam, was dismissed as withdrawn by order dated 19-11-1999, this writ petition, is not maintainable, and thus prayed that the writ petitions be dismissed.

The unofficial respondent filed counter, and learned counsel appearing on his behalf, denied the contention of the petitioners that at the instance of the unofficial respondent, the land was sought to be acquired, and that at his instance, the then Chairman of the Trust Board of the Devasthanam had withdrawn the writ petition filed by him earlier. He contended that the land in Sy. No. 854, which the petitioners are claiming is vacant and is suitable for acquisition for house sites, is their ancestral property, and as one of the sharer, he would be getting an extent of Ac.0-50 cents. He submitted that the said land is not suitable for house sites, and at any rate, he submitted that he had not influenced the revenue officials to acquire the land of the Devasthanam so as to save their ancestral lands from acquisition. He submitted that already the beneficiaries of the house sites constructed houses and are living therein.

The learned Government Pleader for Land Acquisition appearing on behalf of the revenue official respondents produced the relevant record. A perusal of the record would disclose that before seeking to acquire the land of the Devasthanam, the Mandal Revenue Officer, Bhimadole, vide his letter dated 22-2-1996 informed the Revenue Divisional Officer, Eluru, that he has identified the land of the Devasthanam, which is suitable for acquisition, and that the Trust Board of the Devasthanam has no objection and have given their consent for acquisition, and

that there are no trees, trunks and permanent structures existing thereon. Pursuant thereto, notifications under Section 4(1) and Declaration under Section 6 of the Act were issued by the Land Acquisition Officer, and the substance thereof, was published in the District Gazette on 13-3-1996 and 14-3-1996 respectively, as also local newspapers, and the notice thereof, was affixed on the spot where the lands in question are situated on 10-4-1996 and 11-4-1996, and the proposed acquisition was also publicized in the village as also the neighbouring villages by beat of tom-tom. Since the substance of the notifications and declarations under Section 4(1) and 6 of the Act, were given wide publicity, as noted above, the contention of the petitioners that the impugned notifications and declarations cannot be sustained for procedural violations, cannot be countenanced.

Whether or not there is urgency to dispense with the enquiry under Section 5-A of the Act by invoking the provisions of Section 17(4) thereof, is a matter for the subjective satisfaction of the acquisition authorities, and it would not be proper for this Court to go into the veracity or otherwise of the subjective satisfaction arrived at by the authority invoking the urgency provisions to dispense with the enquiry under Section 5-A of the Act, unless it is shown that the decision to dispense with the enquiry had been taken without application. This aspect of the matter, has been settled by the apex Court in **First Land Acquisition Collector v. Nirodhi Prakash Gangoli**, wherein it was held thus:

> The question of urgency of an acquisition under Section 17(1) and (4) of the Act is a matter of subjective satisfaction of the Government and ordinarily it is not open to the Court to make a scrutiny of the propriety of that satisfaction on an objective appraisal of facts. In this view of the matter, when the Government takes a decision, taking all relevant considerations into account and is satisfied that there exists emergency for invoking powers under Section 17(1) and (4) of the Act, and issues Notification accordingly, the same should not be interfered with by the Court unless the Court comes to the conclusion that the appropriate authority had not applied its mind to the relevant facts or that the decision has been taken by the appropriate authority mala fide. Whether in a given situation there existed urgency or not is left to the discretion and the decision of the concerned authority. If an order invoking power under Section 17(4) is assailed, the Courts may enquiry whether the appropriate authority had all the relevant materials before it or whether the order has been passed by non-application of mind.

The petitioners, except making bald assertions that there was no urgency to dispense with the enquiry under Section 5-A of the Act, have not placed any material whatsoever to show that there was no urgency to dispense with the enquiry under Section 5-A of the Act.

The contention of the petitioners that G.O. Ms. No. 456 (Rev-Endt) Department, dated 29-9-1995, violates the various provisions of the Act cannot be accepted. The said G.O. merely lays down that when alternative lands are available, the land belonging to an Endowment should not be acquired for providing house sites to weaker sections of the society and care should be taken to see that small tenants are not adversely affected. But, it is required to be noted that even if alternative lands are available, that by itself is not sufficient for the Government to acquire the land belonging to the Devasthanam, inasmuch as the suitability or otherwise of the land for the purpose for which it is required, has to be assessed by the acquisition authority, and the impugned acquisition having been made after assessing its suitability, no exception can be taken thereto, and this apart, the constitutional validity of G.O. Ms. No. 456 (Rev-Endt) Department, dated 29-9-1995, was upheld by the judgment of the Division Bench of this Court in W.A. No. 904 of 1999, holding that the guidelines laid down in the G.O. are meant for the internal working of the Government, and they cannot create any enforceable rights separately in the writ petitions. Further this Court in **Kona Venkanna v. District Collector, Kakinada** held that the guidelines issued by the Government in G.Os., including G.O.Ms. No. 456, Revenue (Endts..II) Department, dated
29-9-1995, are mainly to speed up the procedure involved in acquiring the lands belonging to Charitable and Endowments Institutions through land acquisition for the purpose of providing houses to weaker sections. The guidelines issued by the Government from time to time in the G.Os. being purely administrative instructions, having no statutory force, this Court following the judgment of the apex Court in **J.R. Raghupathy v. State of A.P.**, held are unenforceable. The apex Court, in the said case, while considering the question whether administrative instructions issued by the Government in exercise of their administrative power, not backed by any statutory power, are enforceable or not, held thus:

> Even assuming that any breach of the guidelines was justiciable, and that the Government while accepting the recommendations of the Cabinet Sub Committee directed that the Mandal Headquarters should be at place 'X' rather than place 'Y' as recommended by the Collector concerned in a particular case, the utmost that the High Court could have done was to quash the impugned notification in a particular case and direct the Government to reconsider the question. There was no warrant for the High Court to have gone further and directed the shifting of the Mandal Headquarters to a particular case. The High Court would not have issued a writ in the nature of mandamus to enforce the guidelines which were nothing more than administrative instructions not having any statutory force, which did not give rise to any legal right in favour of the writ petitioners.

This being the position of law, the contention of the petitioners that the

guidelines issued by the Government in G.O. Ms. No. 456, Revenue (Endts.II) Department, dated 29-9-1995, violate the various provisions of the Act, cannot be accepted, and more so when the guidelines issued therein are merely administrative instructions not having any statutory force.

Though the petitioners contend that the land in question belonging to the Devasthanam was acquired at the instance of the unofficial respondent, who is a local politician, no material has been placed before the Court to substantiate such a plea. The land of the Devasthanam, admittedly is being acquired for the purpose of providing housing sites to weaker sections of the society, and not for the exclusive benefit of any individual, particularly the unofficial respondent, and as such, no *mala fides* can be attributed to him, and more so when the petitioners failed to prove the same. Merely because the unofficial respondent is owning lands, which are vacant, it cannot be said that in order to save his lands from acquisition, he has influenced the official respondents to acquire the land of the Devasthanam, and more so when the official respondents denied the same, and inasmuch as the writ petition and the contempt case filed by the then Chairman of the Trust Board of the Devasthanam, against the official respondents and unofficial respondent, was withdrawn by him, irrespective of whether the Trust Board of the Devathanam passed a resolution not to acquire the land would be of no avail, and more so when by then the land having been acquired and taken possession of, was already distributed to weaker sections. May be some plots are still vacant, but that by itself is not a ground for the petitioners to claim restoration of the same to them, having regard to the several judgements of the apex Court in **Gulam Mustafa v. State of Maharashtra[1], Chandragouda Ramagonda Patil v. State of Maharashtra[2], C. Padma v. Deputy Secretary to Government of Tamil Nadu[3], State of Punjab v. Sadhu Ram[4], State of Kerala v. Bhaskaran Pillai[5], Northern Indian Glass Industries of Maharashtra[6] and Govt. of A.P. v. Syed Akbar[7],** and of this High Court in **Koppula Narasaiah v. Government of Andhra Pradesh[8],** wherein it was held that if the land acquired by the Government was not used for the purpose for which it was acquired, it does not confer any right on the persons whose lands have been acquired to ask for restitution or reconveyance of the land. Therefore, the question of restoration of the land to the petitioners does not arise, and more so when the revenue officials have already paid 80% of the compensation to the Devasthanam. This apart, the beneficiaries of the land, who have been assigned pattas, are not made parties to

the writ petitions.

May be the petitioners, one of them as tenant, and others as having contributed to the development of the Devasthanam, are interested in protecting the properties of the Devasthanam, but that by itself is not a ground for them to contend that the land should not be acquired for public purpose, in the instant case for providing house sites to weaker sections of the society. It is not as if the lands are being acquired for nothing, the land of the Devasthanam having been acquired, 80% of the compensation had already been paid to the Assistant Commissioner of Endowments, Eluru, on 31-3-2001 for the acquired land, and if the said amounts are kept in interest bearing deposits, certainly the income of the Devasthanam will be protected, and as such, the petitioners cannot be allowed to contend that the very source of income will be denied to the Devasthanam if the land is acquired.

The tenant cannot claim to have a better right than what a landlord has. This issue was considered by this Court in **Kona Venkanna v. District Collector, Kakinada**, and this issue has long been settled by the judgment of this Court in **B. Jagannayakulu v. District Collector**, wherein it was held thus:

> A tenant cannot have more rights than the owner. When the question of acquisition of land comes, if the owner cannot defeat the provisions of Land Acquisition Act can a tenant defeat such provisions? Under Section 11 of the Tenancy Act change of ownership in lands which are under tenants is possible. So, by issuing a notification under Section 4 of the Land Acquisition Act, the State has expressed its intention to take the lands into their own ownership. Under the Land Acquisition Act, State can become the owner of any property provided the property is taken for a public purpose and after following the procedure land down by the Land Acquisition Act. Change of ownership is not barred under the A.P. Tenancy Act, therefore, State can become owner of the land which are owned by landlords whether they are temples or private individuals. Once the land is taken in the ownership of the State, the A.P. Tenancy Act, 1956 becomes inoperative by virtue of Section 18 of the same Act. Section 18 of the Tenancy Act lays down that, nothing in the Tenancy Act shall apply to the lands owned by the State Government or the Central Government. Acquisition, per se, is not barred under the Tenancy Act. Change of ownership, is also not barred under the Tenancy Act. There cannot be any bar to the State Government to take the lands into its possession under the provisions of Land Acquisition Act which are in the possession of tenants at a particular point of time.

In view of the above judgement, the petitioner in W.P. No. 24271 of 1996, who claims to be the tenant of the land belonging to the Devasthanam, can well claim his share of compensation that was already awarded by the Land Acquisition Officer, and certainly he cannot challenge the acquisition proceedings on technicalities.

In the above view of the matter, there is no merit in the writ petitions, and the same are accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 21st April, 2005.

KSR

To

1. The Principal Secretary to Government, Revenue Department, State of Andhra Pradesh, Secretariat Buildings, Hyderabad.

2. The Commissioner, Charitable and Hindu Religious Institutions and Endowments Department, Government of A.P., Hyderabad.

3. The District Collector (Social Welfare), West Godavari, Eluru.

4. The Revenue Divisional Officer, Eluru, West Godavari District.

5. The Mandal Revenue Officer, Bhimadole, West Godavari District.

6. The Asst. Commissioner, Charitable and Hindu Religious Institutions and Endowments Department, Government of A.P., Eluru, West Godavari District.

7. The Executive Officer, Gram Panchayat of Pulla, Bhimadole Mandal, West Godavari District.

8. The District Collector (Social Welfare), West Godavari, Eluru.

9. The Land Acquisition Officer and Revenue Divisional Officer, Eluru, West Godavari District.

10. The Mandal RevenueOfficer, Bhimadole, West Godavari District.

11. The Executive Officer, Grampanchayat of Pulla, Bhimadole Mandal, West Godavari District.

12. Two CCS to GP for Revenue, High Court Buildings, Hyderabad (OUT)

13. Two CCs to GP for Land Acquisition, High Court Buildings, Hyderabad (OUT)

14. 2 CD copies

15 1 CC to MR.DURGA PRASAD RAO